



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------|-------------|----------------------|---------------------|------------------|
| 09/698,526 | 10/26/2000 | Dan Vassilovski | 990301 | 6563 |
| 23696 | 7590 | 02/23/2010 | EXAMINER | |
| QUALCOMM INCORPORATED | | | KANG, INSUN | |
| 5775 MOREHOUSE DR. | | | | |
| SAN DIEGO, CA 92121 | | | ART UNIT | PAPER NUMBER |
| | | | 2193 | |
| | | | NOTIFICATION DATE | DELIVERY MODE |
| | | | 02/23/2010 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com
kascanla@qualcomm.com
nanm@qualcomm.com

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/698,526 | VASSILOVSKI ET AL. |
| | Examiner | Art Unit |
| | INSUN KANG | 2193 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 November 2009.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 49-85 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 49-85 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This action is responding to amendment filed on 11/23/2009.
2. Claims 49-85 are pending and have been examined.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 49, 50, 52, 54-57, 59, 60, 62, 64-67, 69, 70, 72-75, 77-79, and 81-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shaw** (USPN 6,381,741)

Per claim 49:

Shaw discloses:

A method for software configuration management for a computing device having an authentication status, the method comprising: receiving a request to load available software into an application area of the computing device (i.e. fig. 1 elements 50 and 70; col. 2 lines 58-67);

determining the authentication status of the computing device, wherein the computing device's authentication status is authenticated if at least one piece of the computing device's resident software has been authenticated, and the computing device's authentication status is not

authenticated if none of the computing device's resident software has been authenticated (i.e. col. col. 3 lines 40-65; fig.2);

determining an authentication status of the available software, wherein the available software's authentication status is authenticated if the available software has been authenticated by the computing device, and the available software's authentication status is not authenticated if the available software has not been authenticated by the computing device (i.e. col. 4 lines 6 to col. 7 line 46; col. 5 lines 34-41); and

loading the available software if the computing device's authentication status is determined to be not authenticated and the resident software's authentication status is determined to be authenticated (i.e. *column 5, lines 34-41, no requirement to authenticate resident software here; further column 3, lines 45-58, sometimes update regardless of "TrustData" bit, for example if "RunDownloader" is set; col. 3 line 45-58 system determines resident software corrupt and needs update as shown above available software is also checked for authenticity*).

Shaw did not explicitly state changing the computing device's authentication status to authenticated if said computing device is not authenticated but said available software is authenticated. **Shaw** demonstrated that it was known at the time of invention to make use of flag indicators for authentication status (column 3, lines 45-57; and column 4, line 45) and **Shaw** (as shown above) clearly demonstrates authenticating available code segments. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the system of **Shaw** with a method of recording available code is authenticated (a flag) as found in **Shaw**'s teaching. This implementation would have been obvious because one of ordinary skill in the art

would be motivated to make use of a common method/device (flag) of communicating/recording information (in this case is or isn't code authenticated). This action occurs regardless of whether resident software is or is not authenticated.

Per claim 50:

Shaw did not explicitly state that the authentication status of the computing device cannot be changed from authenticated to not authenticated. **Shaw** demonstrated that it was known at the time of invention to make use of flag indicators for authentication status (column 3, lines 45-57; and column 4, line 45) and **Shaw** (as shown above) clearly demonstrates authenticating available code segments. It would have been obvious to one of ordinary skill in the art at the time of invention to implement **Shaw's** authentication status to be unchanged from authenticated to not authenticated. This implementation would have been obvious because one of ordinary skill in the art would be motivated to maintain a correct authentication status.

Per claim 52:

Shaw further discloses:

wherein the authentication status of the computing device is indicated by a flag (see above claim 49; column 3, lines 45-57; and column 4, line 45) .

Per claim 54:

Shaw further discloses: the computing device's resident software comprises a plurality of resident software programs; each resident software program has a separate authentication flag to

indicate its authentication status; and computing device's authentication status is determined using the separate authentication flags of the plurality of resident software programs (see above claim 49; column 3, lines 45-57; and column 4, line 45).

Per claim 55:

Shaw further discloses:

loading the available software if the computing device's authentication status is determined to be authenticated and the resident software's authentication status is determined to be authenticated, or if the computing device's authentication status is determined to be not authenticated and the resident software's authentication status is determined to be not authenticated; and rejecting the available software if the computing device's authentication status is determined to be authenticated and the resident software's authentication status is determined to be not authenticated (i.e. column 5, lines 34-41, column 3, lines 45-58, col. 3 line 45-58).

Per claim 56:

Shaw further discloses: wherein the at least one piece of the computing device's resident software is unrelated to the available software (i.e. col. 3 lines 30-43).

Per claim 57:

Shaw further discloses:

wherein the at least one piece of the computing device's resident software corresponds to the available software (i.e. col. 4 lines 19-33).

Per claims 59, 60, 62, and 64-67, they are device versions of claims 49, 50, 52, and 54-57, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 49, 50, 52, and 54-57 above.

Per claims 69, 70, and 72-75, they are medium versions of claims 49, 50, and 53-57 respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 49, 50, and 53-57 above.

Per claims 77-79 and 81-84, they are apparatus versions of claims 49, 50, and 52-57, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 49, 50, and 52-57 above.

5. Claims 51 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shaw** (USPN 6,381,741) in view of admitted prior art (herein referred to as **APA**).

Claim 51:

Shaw does not explicitly state: the computing device's authentication status is represented by a hardware fuse; and the computing device's authentication status is changed to authenticated by blowing the hardware fuse using an electrical current, whereby the computing device's authentication status is not authenticated before the hardware fuse is blown, and the computing device's authentication status is authenticated after the hardware fuse is blown. However, **APA** demonstrated that it was known at the time of invention to utilize such a hardware fuse

(Specification, page 6, lines 9-22). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teachings of **APA** into the system and method of **Shaw**. This implementation would have been obvious because one of ordinary skill in the art would be motivated to perform the well-known authentication techniques to check to determine the authentication status in order to improve the performance of a computing system.

Per claim 61, it is the device version of claim 51, respectively, and is rejected for the same reasons set forth in connection with the rejection of claim 51 above.

6. Claims 53, 58, 63, 68, 71, 76, 80, and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shaw** (USPN 6,381,741).

Per claim 53:

Shaw does not explicitly disclose that the end user devices include a portable wireless communication device. However, it would have been obvious for one having ordinary skill in the pertinent art to modify Shaw's disclosed system to include such a wireless device. The modification would be obvious because one having ordinary skill in the art would be motivated to authenticate software in a wireless device by using the Shaw's authentication method when the wireless device is preferably used.

Per claim 58:

Shaw does not explicitly disclose that wherein the at least one piece of the computing device's resident software is operating system software. However, it would have been obvious for one having ordinary skill in the pertinent art to modify Shaw's disclosed system to include authenticate OS software. The modification would be obvious because one having ordinary skill

in the art would be motivated to authenticate the OS software by using the Shaw's authentication method for ensure the security of the OS before loading any applications.

Per claims 63, 71, and 80, they are the device, medium versions of claim 53, respectively, and are rejected for the same reasons set forth in connection with the rejection of claim 53 above.

Per claims 68, 76, and 85, they are the device, medium versions of claim 58, respectively, and are rejected for the same reasons set forth in connection with the rejection of claim 58 above.

Response to Arguments

7. Applicant's arguments with respect to claims 49-85 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to INSUN KANG whose telephone number is (571)272-3724. The examiner can normally be reached on M-R 7:30-6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis A. Bullock, Jr. can be reached on 571-272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Insun Kang/
Primary Examiner, Art Unit 2193